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TO SECSTATE WASHDC IMMEDIATE 9101  
INFO AMEMBASSY BUJUMBURA  
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C O N F I D E N T I A L SECTION 01 OF 04 PARIS 22245

E.O. 12356: DECL: OADR  
TAGS: PHUM, PREL, PREF, RW, FR  
SUBJECT: A/S SHATTUCK'S MEETING WITH FRENCH ON RWANDA  
- WAR CRIMES TRIBUNAL AND BURUNDI  
REF: USUN 3281

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1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: DRL A/S SHATTUCK MET AUGUST 10 WITH QUAI OFFICIALS TO EXCHANGE VIEWS ON THE ESTABLISHMENT OF A RWANDA WAR CRIMES TRIBUNAL. THE FRENCH AGREED ON THE NEED FOR: (1) QUICK MOVEMENT TO ESTABLISH SUCH A TRIBUNAL, INCLUDING THE POTENTIAL VALUE OF AN INTERIM COMMISSION OF EXPERTS REPORT IN MOVING IT FORWARD; (2) PROMOTION OF EARLY RETURN OF REFUGEES THROUGH PRESENCE OF HUMAN RIGHTS MONITORS AND OTHER REPRESENTATIVES OF INTERNATIONAL COMMUNITY ON THE GROUND IN RWANDA --

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THOUGH THE FRENCH MADE NO COMMITMENT TO FUND MONITORS;  
AND (3) PARALLEL DEVELOPMENT OF A NATIONAL RWANDAN  
JUDICIAL SYSTEM CAPABLE OF PROSECUTING WAR CRIMINALS.  
THE MEETING ENDED WITH A SHORT DISCUSSION OF ESCALATING  
TENSIONS IN BURUNDI AND THE NEED TO INCREASE THE  
INTERNATIONAL PRESENCE THERE. END SUMMARY.

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DEVELOPMENT OF THE RWANDA WAR CRIMES TRIBUNAL  
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3. ON AUGUST 10, DRL A/S SHATTUCK MET WITH SENIOR GOF  
OFFICIALS TO DISCUSS ESTABLISHMENT OF A RWANDA WAR  
CRIMES TRIBUNAL AND THE SITUATION IN BURUNDI. SHATTUCK  
WAS ACCOMPANIED BY 1 SPECIAL ASSISTANT CRYSTAL NIX,  
DRL/MLA OFFICE DIRECTOR JOSIAH ROSENBLATT, AND EMBASSY  
POLITICAL OFFICERS. HIS FRENCH INTERLOCUTORS WERE QUAI  
AFRICA A/S JEAN-MARC ROCHEREAU DE LA SABLIERE, IO A/S  
COLIN DE VERDIERE, LEGAL ADVISOR JEAN-PIERRE  
PUISSOCHET, CENTRAL AND EAST AFRICA DAS CATHERINE  
BOIVINEAU AND IO DESK OFFICER LAURENCE RIST.

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CONVINCING REFUGEES TO RETURN HOME  
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4. DE LA SABLIERE UNDERLINED GOF CONCERN THAT RWANDAN  
REFUGEES ARE RETURNING TO THEIR HOMES TOO SLOWLY. HE  
ARGUED THAT THE NEW KIGALI GOVERNMENT NEEDS TO PROVIDE  
CLEAR SECURITY ASSURANCES TO THE REFUGEES IN THE FACE  
OF REPORTED REVENGE KILLINGS BY RPF SOLDIERS. HE NOTED  
THAT THE EXODUS OF REFUGEES INTO TANZANIA CURRENTLY  
EXCEEDS THE NUMBER OF RETURNEES.

5. SHATTUCK OUTLINED RECENT STEPS THE GOR HAS TAKEN TO  
ENCOURAGE THE RETURN HOMEWARD OF REFUGEES. HE  
DESCRIBED THE LETTER THE GOR HAD SENT TO THE UN SYG, IN  
WHICH THE GOR PUBLICLY CONDEMNED ACTS OF RETRIBUTION,  
AGREED TO ARREST THOSE ENGAGING IN SUMMARY EXECUTIONS  
NOW OR PREVIOUSLY, DECLARED ITS SUPPORT FOR AN  
INTERNATIONAL WAR CRIMES TRIBUNAL, AGREED TO DEFER  
PROSECUTION OF WAR CRIMINALS TO THE TRIBUNAL, AND SAID  
IT WOULD RELY ON DUE PROCESS IN LOCAL PROSECUTIONS.  
SHATTUCK ALSO NOTED THE GOR PRIME MINISTER'S PUBLIC  
COMMUNIQUE IN WHICH HE CLEARLY STATED THE GOVERNMENT'S  
GUARANTEE OF SECURITY FOR RETURNING REFUGEES. THE GOR

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TOLD SHATTUCK IT WANTS THE REFUGEES TO RETURN HOME SOON.

ORGANIZATION OF THE TRIBUNAL  
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6. WHILE AGREEING ON THE NECESSITY OF ESTABLISHING AN  
INTERNATIONAL RWANDAN WAR CRIMES TRIBUNAL AS SOON AS  
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POSSIBLE, LEGAL ADVISOR PUISSOCHET NOTED THE FRENCH  
PREFERENCE TO ESTABLISH A LEGALLY DISTINCT TRIBUNAL FOR  
CRIMES COMMITTED IN RWANDA, THOUGH HE INDICATED THE GOF  
COULD BE FLEXIBLE ON THIS. HE ARGUED THAT IT WOULD BE  
DIFFICULT TO ENLARGE THE YUGOSLAVIA WAR CRIMES TRIBUNAL  
AND THAT THE COMPOSITION OF JUDGES ALREADY SELECTED FOR  
YUGOSLAVIA MIGHT NOT BE APPROPRIATE FOR RWANDAN  
CRIMES. REGARDLESS OF WHETHER A NEW TRIBUNAL WERE

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C O N F I D E N T I A L SECTION 02 OF 04 PARIS 22245

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- WAR CRIMES TRIBUNAL AND BURUNDI

CREATED OR THE EXISTING TRIBUNAL WERE ENLARGED, HE SAID  
A NEW UNSC RESOLUTION WILL BE REQUIRED. HE DID NOT SEE  
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OBVIOUS MONETARY SAVINGS IN ENLARGING THE YUGOSLAVIA  
TRIBUNAL AND EXPRESSED A CONCERN THAT ENLARGEMENT COULD  
EVENTUALLY LEAD TO AN INTERNATIONAL COURT -- AN  
UNDESIRABLE RESULT FROM THE GOF POINT OF VIEW.  
PUISSOCHET DID AGREE THAT CERTAIN SERVICES MIGHT BE  
SHARED BETWEEN THE TWO TRIBUNALS, SUCH AS REGISTRATION  
AND ADMINISTRATIVE FACILITIES.

7. NIX DESCRIBED THE U.S.-PREFERRED ORGANIZATION OF  
THE RWANDAN WAR CRIMES TRIBUNAL. SHE EMPHASIZED THE  
NEED FOR RELATIVE PARITY WITH THE YUGOSLAV TRIBUNAL --  
SO THAT IT WOULD BE CLEAR THE INTERNATIONAL COMMUNITY  
DOES NOT ATTACH LESS IMPORTANCE TO WAR CRIMES IN AFRICA  
THAN TO THOSE IN EUROPE. SHE POINTED OUT THE ADVANTAGE  
OF HAVING ONE TRIBUNAL HANDLE ALL WAR CRIMES CASES,  
THUS DEVELOPING A CONSISTENT BODY OF LAW EMPLOYING A  
SINGLE SET OF STANDARDS. SHE NOTED THE IMPORTANCE OF  
SETTING UP THE TRIBUNAL IN A TIMELY MANNER. USING THE  
BUILDING IN THE HAGUE, SUPPORT STAFF, AND THE SAME  
APPELLATE AND TRIAL JUDGES, THE NEW TRIBUNAL WOULD NEED  
TO ADD ONLY SEVERAL AFRICAN JUDGES AND A SEPARATE  
PROSECUTORIAL STAFF. A SINGLE CHIEF PROSECUTOR,  
JUSTICE GOLDSTONE, WOULD PRESIDE OVERALL. THE FRENCH  
AGREED THAT JUDGE GOLDSTONE WOULD BE VERY CREDIBLE IN  
THAT POSITION.

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8. PUISOCHET SAID THE PURPOSE OF THE TRIBUNAL MUST BE CLEARLY DEFINED -- WHETHER IT IS INTENDED TO JUDGE THE INSTIGATORS, MIDDLE-LEVEL COMMANDERS, OR THE HUGE NUMBER OF PERSONS WHO CARRIED OUT THE KILLINGS. HE NOTED THAT THOUGH THE YUGOSLAV TRIBUNAL IS INTENDED TO

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PROSECUTE ALLEGED INSTIGATORS AND MIDDLE-LEVEL CRIMINALS, ONLY ONE OR TWO PERSONS MIGHT BE PROSECUTED BEFORE THE END OF THIS YEAR. HE EXPRESSED CONCERN ABOUT THE RELATIONSHIP BETWEEN JUDGMENTS WHICH MIGHT BE HANDED DOWN BY THE INTERNATIONAL TRIBUNAL AND THOSE OF LOCAL COURTS: LOCAL COURTS COULD CONDEMN PERSONS TO DEATH, WHEREAS THE INTERNATIONAL TRIBUNAL, PRESUMABLY TRYING HIGHER-LEVEL CRIMINALS, WOULD BE LIMITED TO LONG-TERM PRISON SENTENCES.

9. PUISOCHET RAISED THE PROBLEM OF ARRESTING AND DETAINING ALLEGED CRIMINALS. RHETORICALLY ASKING WHO COULD MAKE ARRESTS AND UNDER WHAT AUTHORITY, HE NOTED THAT CHAPTER 7 HAS BEEN USED AS THE BASIS FOR ESTABLISHING THE YUGOSLAV TRIBUNAL AND WAS SKEPTICAL THAT THIS COULD BE EXPANDED FURTHER AND STATES BE INSTRUCTED TO ARREST ALLEGED WAR CRIMINALS. SHATTUCK RESPONDED THE UNSC RESOLUTION ESTABLISHING THE INTERNATIONAL TRIBUNAL WOULD PROVIDE THE AUTHORITY FOR LOCAL OFFICIALS TO ARREST AND DETAIN ALLEGED CRIMINALS IN WHATEVER COUNTRY THEY MAY BE FOUND. HE RAISED THE POSSIBILITY OF CALLING UPON STATES TO ARREST ALLEGED CRIMINALS BEFORE THE TRIBUNAL IS ESTABLISHED; THE FRENCH PARTICIPANTS INSISTED THAT NO DETENTIONS COULD OCCUR BEFORE A RESOLUTION IS PASSED CREATING THE TRIBUNAL.

10. IN VIEW OF THE AGREED-UPON URGENCY OF CREATING THE TRIBUNAL, SHATTUCK RAISED THE POSSIBILITY OF HAVING THE MEMBERS OF THE INTERNATIONAL COMMISSION RECOMMEND CREATION OF THE RWANDAN WAR CRIMES TRIBUNAL IN AN

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INTERIM REPORT, FOLLOWING THE WAY IN WHICH THE YUGOSLAV

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TRIBUNAL HAD BEEN CREATED. DE LA SABLIERE RESPONDED  
THAT THE MEMBERS OF THE COMMISSION WOULD NEED TO BE  
CONSULTED, BUT HE SEEMED FAVORABLY INCLINED TO THE IDEA.

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11. DE LA SABLIERE RAISED THE ISSUE OF THE NUMBER OF  
POTENTIAL CRIMINALS TO BE JUDGED. HE NOTED THE FRENCH

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PRESS HAD PUBLISHED A LIST OF 500 LEADERS, BUT, QUERIED BY SHATTUCK, STATED THE GOF HAD NOT COMPILED A LIST OF  
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ITS OWN. HE THEN QUOTED A PRESS REPORT THAT THE GOR  
MINISTER OF JUSTICE HAD SAID THERE WERE 32,000  
GOVERNMENT AND MILITARY PERSONNEL WHO COULD BE  
PROSECUTED. ROSENBLATT EXPLAINED THAT THE GOR MINISTER  
OF JUSTICE HAD TOLD THE U.S. DELEGATION HE MEANT THAT  
THAT WAS THE NUMBER OF PERSONS POSSIBLY IMPLICATED  
BECAUSE OF THEIR POSITIONS, NOT THE NUMBER OF PERSONS  
TO BE PROSECUTED. (NOTE: THE 500 NUMBER APPEARS TO  
INCLUDE INSTIGATORS AND MIDDLE-LEVEL COMMANDERS. END  
NOTE.)

LOCAL JUSTICE VERSUS INTERNATIONAL TRIBUNAL  
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12. BOTH SIDES AGREED ON THE IMPORTANCE OF DEVELOPING  
THE LOCAL JUDICIAL SYSTEM AT THE SAME TIME AS THE  
INTERNATIONAL TRIBUNAL IS BEING ESTABLISHED. DE LA  
SABLIERE POINTED OUT THAT THE INSTIGATORS OF THE  
KILLINGS ARE NO LONGER IN RWANDA, AND IT WILL ONLY BE  
POSSIBLE TO PROSECUTE THEM THROUGH AN INTERNATIONAL  
TRIBUNAL. THE INTERNATIONAL COMMUNITY MUST FIND A WAY  
TO JUDGE THESE CRIMINALS TO PREVENT FUTURE GENOCIDE.  
SHATTUCK AGREED THAT AN EARLY PRIORITY FOR THE TRIBUNAL  
AND THE GOR WOULD BE TO DELINEATE CATEGORIES OF WAR  
CRIMINALS EACH WOULD SEEK TO PROSECUTE. REGARDING THE  
MIDDLE-LEVEL COMMANDERS, HE NOTED THAT BOTH ZAIRE AND  
TANZANIA WANT THE RWANDAN REFUGEES TO RETURN HOME, AND  
IT WOULD BE IN THOSE COUNTRIES' OWN INTERESTS TO DETAIN  
CRIMINALS, THOUGH THAT WILL NOT BE POSSIBLE UNTIL THE  
INTERNATIONAL TRIBUNAL IS ESTABLISHED.

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13. DE VERDIERE NOTED THAT REFUGEES WILL NOT RETURN TO  
RWANDA UNLESS THEY ARE ASSURED THAT THEY WILL BE SECURE  
FROM REPRISALS. IN ADDITION TO THE DECLARATIONS THE

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GOR HAS ALREADY MADE, THE BEST WAY TO ENSURE THIS IS THROUGH THE OPERATION OF A LOCAL JUDICIAL SYSTEM RELYING ON DUE PROCESS OF LAW TO PUNISH THE ACTUAL WAR CRIMINALS. WITHIN RWANDA, THEREFORE, MIDDLE-LEVEL COMMANDERS WHO HAVE NOT FLED, OR WHO RETURN WITH THE REFUGEES, MIGHT BE ARRESTED.

HUMAN RIGHTS MONITORS; OBSERVERS FOR COURT PROCEEDINGS  
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14. SHATTUCK DESCRIBED THE GOR'S REQUEST FOR HUMAN RIGHTS MONITORS TO ENCOURAGE THE RETURN OF REFUGEES AND DISCOURAGE VIGILANTE ACTIVITIES. HE REPORTED THAT THE UN IN GENEVA HAS STARTED THE PROCESS AND THAT A PORTION OF THE TWO MILLION DOLLARS THE U.S.Q59 17,\$ .9,8594. HE STRONGLY ENCOURAGED THE FRENCH TO PROVIDE MONITORS OR FUNDING FOR THEM. ROSENBLATT ESTIMATED THAT THE NUMBER OF MONITORS REQUIRED WOULD BE A MINIMUM OF 150: ONE FOR EACH OF THE 15 COMMUNES IN EACH OF RWANDA'S 10 PREFECTURES OUTSIDE KIGALI. DE LA SABLIERE COMMENTED THAT THE GOF IS WORKING IN THE SAME DIRECTION, BUT DID NOT MAKE ANY OFFERS OF FRENCH PARTICIPATION OR FUNDING.

15. SHATTUCK REPORTED THAT THE GOF HAS ALSO REQUESTED INTERNATIONAL OBSERVERS OF LOCAL COURT PROCEEDINGS TO INCREASE CONFIDENCE IN THE RULE OF LAW. HE NOTED THE NEED TO PROVIDE A HIGH STANDARD OF PERSONNEL, PERHAPS THROUGH LAWYERS ASSOCIATIONS. HE SAID OBSERVERS COULD  
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BE PROVIDED BY INDIVIDUAL GOVERNMENTS OR BY  
NON-GOVERNMENTAL ORGANIZATIONS, A COMPLICATED ISSUE  
BECAUSE THESE MONITORS WOULD BE SEEN AS APPROVING LOCAL  
COURT DECISIONS.

UPDATE ON BURUNDI

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16. SHATTUCK PRESENTED AN UPDATE ON THE SITUATION IN  
BURUNDI, WHERE HE HAD BEEN THE DAY BEFORE. HE  
DESCRIBED THE ATMOSPHERE OF HIGH TENSION AND THE  
DISTRUST THAT HAVE LED TO VIOLENCE AMONG EXTREME  
ELEMENTS, INCLUDING UNIVERSITY STUDENTS BEING USED BY  
TUTSI EXTREMISTS. SHATTUCK SAID BURUNDI NEEDS A LARGE

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PRESENCE OF INTERNATIONAL CIVILIAN MONITORS. HE POSED TWO QUESTIONS: HOW TO INCREASE THE MONITORING CAPACITY IN BURUNDI, NOTING THAT THE 32 OAU OBSERVERS ARE NOT WELL-REGARDED; AND WHAT CAN BE DONE TO INCREASE ASSISTANCE OF HUMANITARIAN ORGANIZATIONS. HE ALSO RAISED THE PROBLEM OF ACCOUNTABILITY FOR THE 1993 MASSACRES OF APPROXIMATELY 60,000 PERSONS.

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17. DE SABLIERE COMMENTED THAT BURUNDI HAS BEEN UNABLE TO ACCELERATE THE PROCESSES OF NEGOTIATION AND THAT COMPROMISE IS BECOMING MORE AND MORE DIFFICULT. HE COMPLAINED THAT RPF LEADER KAGAME HAS ENOUGH INFLUENCE TO CALM THE BURUNDIAN TUTSIS, BUT HASN'T USED IT. HE PLACED RESPONSIBILITY WITH THE ARMY TO DO SOMETHING AND EXPRESSED CONCERN THAT IMPUNITY WILL RESULT IN A CONTINUATION OF VIOLENCE. HE NOTED THAT THE SITUATION HAS DETERIORATED IN THE LAST 10 DAYS AND AGREED THAT THE INTERNATIONAL COMMUNITY SHOULD INCREASE ITS PRESENCE IN BURUNDI.

18. THIS MESSAGE WAS DRAFTED AFTER A/S SHATTUCK DEPARTED POST.

HARRIMAN

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